

Panama Canal Regulations

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(5) From subsection (e)(2) because in a law enforcement investigation it is usually counterproductive to collect information to the greatest extent practicable directly from the subject thereof. It is not always feasible to rely upon the subject of an investigation as a source for information which may implicate him or her in illegal activities. In addition, collecting information directly from the subject could seriously compromise an investigation by prematurely revealing its nature and scope, or could provide the subject with an opportunity to conceal criminal activities, or intimidate potential sources, in order to avoid apprehension.

(6) From subsection (e)(3) because providing such notice to the subject of an investigation, or to other individual sources, could seriously compromise the investigation by prematurely revealing its nature and scope, or could inhibit cooperation, or permit the subject to evade apprehension.

(7) From (e)(4) (G) and (H); (f); (g); and (h) because these provisions concern an individual's access to records which concern him and such access to records in this system would compromise investigations, reveal investigatory techniques and confidential informants, and invade the privacy of private citizens who provide information in connection with a particular investigation.

(8) From subsection (e)(5) because in the collection of information for law enforcement purposes it is impossible to determine what information is accurate, relevant, timely, and complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light and the accuracy of such information can only be determined in a court of law. The restrictions of subsection (e)(5) would restrict the ability of trained investigators to exercise their judgment in reporting on investigations and impede the development of information necessary for effective law enforcement.

(9) From subsection (e)(8) because the application of this provision could prematurely reveal an ongoing criminal investigation to the subject of the in-

vestigation and could reveal investigative techniques, procedures or evidence.

[59 FR 9089, Feb. 25, 1994]

§ 10.22 Specific exemptions.

(a) The following systems of records are eligible for exemption under 5 U.S.C. 552a(k)(2) because they contain investigatory material compiled for law enforcement purposes, other than material within the scope of subsection (j)(2) of 5 U.S.C. 552a. Provided, however, that if any individual is denied any right, privilege or benefit that he would otherwise be eligible, as a result of the maintenance of such material, such material shall be provided to such individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to January 1, 1975, under an implied promise that the identity of the source would be held in confidence. Accordingly, the following systems of records are exempt from (c)(3); (d); (e)(1); (e)(4) (G) and (H); (f); (g); and (h) of 5 U.S.C. 552a.

- (1) PCC/GSCP-2, Canal Protection Division Incident Report Files;
- (2) PCC/OIG-1, Investigative Files of the Office of Inspector General;
- (3) PCC/OIG-2, Allegation/Complaint Files of the Office of Inspector General;
- (4) PCC/OIG-3, Cash Audit Files.
- (5) PCC/FMAC-1, Embezzlements, Burglaries, and Cash Shortages;
- (6) PCC/EO-2, Equal Employment Opportunity Complaint File;
- (7) PCC/GCCL-1, Marine Accident/Miscellaneous General Claims Files;
- (8) PCC/GSCS-2, Housing Complaints Files;
- (9) PCC/GSCX-1, Administrative Reports, Transfer of Custody and Official Complaint Files.
- (10) PCC/AEPR-1, Probation and Parole Unit Child Custody Reports;
- (11) PCC/AEPR-2, Presentence and Preparole Investigation Reports;
- (12) PCC/AEPR-3, Probation and Parole Unit Statistical File;
- (13) PCC/CAPS-2, Case Investigations;
- (14) PCC/GSPL-1, Law Enforcement Case Report Files;

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(15) PCC/GSPL-2, Police Headquarters Confidential File;

(16) PCC/GSPL-3, Detective Confidential Files;

(17) PCC/GSPL-4, Convict Files;

(18) PCC/GSPL-6, Police Photo Files;

(19) PCC/GSPL-7, Fingerprint File;

(20) PCC/GSPL-10, Master Name File;

(21) PCC/CZG-HL-2, Medical Administration System.

(b) Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) because the release of the accounting of disclosures would permit the subject of a criminal investigation and/or civil case or matter under investigation, in litigation, or under regulatory or administrative review or action to obtain valuable information concerning the nature of that investigation, case or matter and present a serious impediment to law enforcement or civil legal activities.

(2) From (d); (e)(4) (G) and (H); (f); (g); and (h) because these provisions concern an individual's access to records which concern him and such access to records in this system would compromise investigations, reveal investigatory techniques and confidential informants, and invade the privacy of private citizens who provide information in connection with a particular investigation.

(3) From subsection (e)(1) because it is often impossible to determine relevancy or necessity of information in the early stages of an investigation. The value of such information is a question of judgment and timing; what appears relevant and necessary when collected may ultimately be evaluated and viewed as irrelevant and unnecessary to an investigation. In addition, information may be obtained concerning the violation of laws other than those within the scope of its jurisdiction. In the interest of effective law enforcement, this information should be retained because it may aid in establishing patterns of unlawful activity and provide leads for other law enforcement agencies. Further, in obtaining evidence during an investigation, information may be provided which relates to matters incidental to the main purpose of the investigation but which may be pertinent to the investigative

jurisdiction of another agency. Such information cannot readily be identified.

(c) The following systems of records are eligible for exemption under 5 U.S.C. 552a(k)(5) because they contain investigatory material compiled solely for the purpose of determining suitability, eligibility or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to January 1, 1975, under an implied promise that the identity of the source would be held in confidence. Accordingly, these systems of records are exempt from 5 U.S.C. 552a(c)(3) and (d).

(1) PCC/FMAC-1, Embezzlements, Burglaries, and Cash Shortages;

(2) PCC/PB-2, Appeals, Grievances, Complaints and Assistance Records;

(3) PCC/PB-3, Personnel Investigation Records;

(4) PCC/PR-5, Recruiting and Placement Records;

(5) PCC/PR-7, Personnel Reference Unit Files.

(6) PCC/OIG-1, Investigative Files of the Office of Inspector General;

(7) PCC/OIG-2, Allegation/Complaint Files of the Office of Inspector General;

(8) PCC/OIG-3, Cash Audit Files.

(d) Exemptions from the particular subsections are justified for the following reasons:

(1) From (c)(3) because release of an accounting of disclosure to an individual who is the subject of an investigation could compromise the investigation.

(2) From (d) because access to or amendment of records in these systems would reveal the identity(ies) of the source(s) of information collected in the course of a background investigation. Such knowledge might violate the explicit or implicit promise of confidentiality made to the source during the investigation or constitute an unwarranted invasion of the personal privacy of third parties, or reveal sensitive investigative techniques and procedures. Such breaches could restrict

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the free flow of information vital to a determination of a candidate's qualifications and suitability.

(e) The following systems of records are eligible for exemption under 5 U.S.C. 552a (k)(6) because they contain testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service, the disclosure of which would compromise the objectivity or fairness of the testing or examination process. Accordingly, these systems of records are exempt from 5 U.S.C. 552a(d).

(1) PCC/CZG/BRAE-1, Canal Zone Board of Registration for Architects and Professional Engineers Reference Files;

(2) PCC/MRBL-1, Marine License Files;

(3) PCC/MRNA-1, Admeasurer Examination File;

(f) Exemptions from the particular subsections are justified for the following reasons:

(1) The exemption from (d) is justified because portions of records in these systems relate to testing or examining materials and are used solely to determine individual qualifications for appointment or promotion in the Federal service. Access to or amendment of this information would compromise the objectivity and fairness of the testing or examining process.

(2) [Reserved]

[59 FR 9090, Feb. 25, 1994]

APPENDIX A TO PART 10—GENERAL ROUTINE USES

Information about an individual which is maintained in any system of records under the control of the Panama Canal Commission is subject to disclosure, as a routine use of such information, to any of the following persons or agencies under the circumstances described:

1. Information indicating a violation or potential violation of law (whether civil, criminal, or regulatory in nature, and whether involving a statute or regulation or a rule or order issued pursuant thereto) may be referred to the federal, state, local, foreign, or international agency charged with inves-

tigating or prosecuting such violations or charged with implementing or enforcing the particular statute, or regulations, rule, or order, which is pertinent thereto.

2. Information which has a bearing on matters which may be in dispute may be disclosed in the course of presenting evidence or argument to a court or administrative tribunal, a judicial official, or counsel for a party in connection with litigation or administrative proceedings in which the agency, or its officers or employees, are or may become involved.

3. Information may be provided to persons or agencies from whom information is solicited, to the extent necessary to elicit facts which may be relevant to a financial audit or an agency decision to hire or retain an employee, issue a security clearance, award a contract, grant a license, or otherwise provide a benefit or incur an obligation.

4. Information may be disclosed to a Federal agency, in response to its request in a particular case or in a category of cases, in connection with that agency's (a) decision in a personnel matter; (b) financial audits and accounting; (c) issuance of a security clearance; (d) investigation of an individual employed or formerly employed by the Panama Canal Commission (or its predecessors); or (e) decision to award a contract, grant a license, or otherwise provide a benefit or incur an obligation.

5. Information may be supplied in response to an inquiry from a Member of Congress on behalf of an individual or, at any stage of the legislative coordination and clearance process, to the Office of Management and Budget in connection with the review of private relief legislation.

6. Information which has a bearing on the qualifications of professional personnel (such as architects, attorneys, engineers, medical practitioners, pilots, and teachers) who have been employed by the agency or have had professional dealings with the agency may be provided to the appropriate authorities such as professional licensing and certifying boards and grievance committees.

7. To the extent necessary for implementation of the Panama Canal Treaty of 1977 and related agreements, information may, upon approval by the Agency Records Officer (Chief, Administrative Services Division) or that official's designee, be disclosed to officials of the Government of the Republic of Panama and to U.S. Government agencies which, under the Treaty, assumed functions formerly performed by the Panama Canal Company or the Canal Zone Government.